UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,692	01/13/2006	Mugihei Ikemizu	SANOP013US	3349

43076 7590 03/16/2009

MARK D. SARALINO (GENERAL)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE, NINETEENTH FLOOR
CLEVELAND, OH 44115-2191

EXAMINER	
PATEL, RITA RAMESH	

ART UNIT	PAPER NUMBER
1792	

MAIL DATE	DELIVERY MODE
03/16/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/564,692	IKEMIZU ET AL.	
	Examiner	Art Unit	
	RITA R. PATEL	1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 January 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2 and 5-27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2 and 5-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *13 January 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Applicant's Arguments / Amendments

This Office Action is responsive to the amendment filed on 1/23/09. Claims 1-2 and 5-27 are pending. Claims 3-4 have been canceled. Claims 1 and 20 have been amended.

Applicant's arguments have been fully considered, but are not persuasive. Thus, claims 1-2 and 5-27 are finally rejected for the reasons of record.

First of all, Applicant contests the current objections to the 35 USC 112 2nd paragraph rejection regarding the claimed "first water" and "second water" in claim 8. However these objections and rejections are maintained because the claimed "first water" and "second water" still fails to indicate an antecedent basis. Examiner recommends to overcome the 35 USC 112, 2 paragraph rejection that Applicant changes the claim language to recite "a first water" and "a second water".

Next, Applicant argues that the prior art Pastryk further in view of Tejeda fails to teach the invention which produces an antimicrobial or antifungal effect as claimed in claim 1; Applicant supports this argument by stating that the ion exchanging material of Tejeda is for absorbing Ca, Mg and like ions, and in exchange releasing NA, H and like ions from water, and thereby releasing these Na, H and the like ions does not produce an antimicrobial or antifungal effect. However, in the invention of Tejeda, electrodes made of silver is used (col. 6, lines 57-58), silver inherently works to produce an antimicrobial effect since the properties of silver are well-known in inherently producing antimicrobial and antifungal effects. Applicant has not addressed the efficacy of silver

as an antimicrobial material, Applicant merely has shifted the argument that the invention of Tejeda may release ions such as Na and H and then limits the invention of Tejeda by saying these Na and H produced ions fail to produce any antimicrobial or antifungal effects. However, due to the inherent antimicrobial properties of silver, the silver electrodes of Tejeda read on Applicant's claims for achieving antimicrobial and antifungal properties.

Next, Applicant presents the prior art Obata and states that Obata is used for dehumidifying and exhausting air during drying and therefore does not read on the invention because it is not for spraying fluid on laundry. However, the dehumidifying features of Obata are not even referred to in the present rejection. Evidence by applicant must be reasonably commensurate in scope with the claimed invention. See, e.g., In re Kulling, 897 F.2d 1147, 1149, 14 USPQ2d 1056, 1058 (Fed. Cir. 1990); In re Grasselli, 713 F.2d 731, 743, 218 USPQ 769, 777 (Fed. Cir. 1983). Applicant's argument's are not commensurate in scope and thus, are not persuasive. The features of the Obata reference called upon (namely, col. 10, lines 42-43) are referring to the delivery of water into the washing machine by way of a shower or mist D, this reads on Applicant's claims for spraying fluid on laundry. Additionally, although after washing, Obata may perform dehumidification processes, however these features are not at all being referenced or relied upon the current rejection over Obata. Applicant does not address or make reference to the actual current rejection as filed by the Examiner, but rather refers to parts of the Obata reference that have not been relied upon. Obata's

teaching of dehumidification does not teach away from it's clear disclosure of a washing machine spraying water in the form of a shower/atomized mist.

Drawings

The objections to the drawings have been overcome due to Applicant's persuasive arguments in the reply filed 1/23/09.

Specification

The objection to the specification has been overcome due to Applicant's explanation of support of the claimed "first water" and "second water" being provided in Paragraphs [0178]+.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 recites the limitation "first water" and "second water" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim. ***Examiner recommends to overcome the 35 USC 112, 2 paragraph rejection that Applicant changes the claim language to recite "a first water" and "a second water".***

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-2, 6-8, and 11-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pastryk et al. herein referred to as "Pastryk" (Patent No. 5,345,637) and further in view of Tejeda (Patent No. 3,869,382).

Pastryk teaches a washing machine 20 having pre-settable control means for operating washing, rinsing, and extracting functions, in combination with cycle selector 33; these functions are consumer selectable. Therein is a dispenser arrangement 72, for dispensing detergent, rinse additives, and/or bleach. Wash liquid is sprayed onto fabrics by a spray nozzle 86.

Pastryk teaches the claimed washing machine, but is silent regarding an ion exchange material used therein. Tejeda teaches a water softening apparatus using ion

exchange material and electrodes which may be made of silver (col. 6, lines 57-58). It would have been obvious to one of ordinary skill in the art at the time of the invention to use this silver ion and electrode feature of Tejeda in the invention of Pastryk, since it is known in the art to use water softeners in household appliances, such as washing machines (Tejeda: col., 3, lines 25-26). In the Tejeda reference, the water inlet and outlet are illustrated as a one dimensional illustration, thus it is unclear the position of the outflow port, however, it would have been obvious to one of ordinary skill in the art at the time of the invention to have the outlet formed at a position downhill and lower than that of the electrode to facilitate outlet flow. Moreover, it would have been obvious to one of ordinary skill in the art at the time of the invention to duplicate outlets such that there exists a second outflow located at a position higher than the electrode, therefore ensuring that the electrode is fully submerged in fluid and thus, optimally utilizing the electrode. It is well settled that the mere duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 124 USPQ 378 (CCPA 1960).

The washing machine of Pastryk is conventional and has known washing, rinsing, and extracting functions, it is fully capable of having the rinse cycle repeated. It is well settled that the intended use of a claimed apparatus is not germane to the issue of the patentability of the claimed structure. If the prior art structure is capable of performing the claimed use then it meets the claim. *In re Casey*, 152 USPQ 235, 238 (CCPA 1967); *In re Otto*, 136 USPA 459 (CPA 1963). The controller of Pastryk is pre-settable and thus reads on Applicant's claim combinations for various control functions,

since Pastryk is fully capable of being pre-settable to perform the claimed washing functions.

Furthermore, it is obvious to optimize the amount of silver metal used in the water to achieve the greatest efficiency, and avoid waste of materials. It has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Pastryk teaches a drain valve 83 (drain valve) which is controllably opened/closed.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pastryk and Tejeda as applied to claims above, and further in view of Obata et al. (Patent No. 5,029,458).

Pastryk and Tejeda teach the claimed invention but fail to teach the claimed shower emitted having a vibrator that atomizes by vibration the water fed thereto. However, Obata teaches a washing machine spraying water in the form of a shower/atomized mist (Col. 10, lines 42-43). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine this feature of Obata to Pastryk-Tejeda since it is a known and beneficial way of supplying fluid, resulting in even distribution and mixing.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pastryk and Tejeda, further in view of Obata.

Pastryk and Tejeda teach the claimed invention, except fail to teach the washing machine having drying functions. However, combination washer-dryers are well known in the art. Having a single machine for performing both the washing and drying is desirable in saving space, time, and added convenience since the user does not having to move clothes between machines, etc. Obata teaches a combination washer-dryer having a rotating tub therein, thus it would have been obvious to one of ordinary skill in the art at the time of the invention to have this feature added in Pastryk-Tejeda for these known benefits.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RITA R. PATEL whose telephone number is (571)272-8701. The examiner can normally be reached on M-F: 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Barr/
Supervisory Patent Examiner, Art Unit 1792

/Rita R. Patel/
Examiner, Art Unit 1792